

DISTRICT COURT, JEFFERSON COUNTY
COLORADO
100 Jefferson County Parkway
Golden, CO 80401

Plaintiff(s): DONALD F. FLEMING, DIEDRA A. FLEMING, BRIAN E. ROHRBOOUGH and SUSAN A. PETRONE

Intervenor Plaintiffs: MARK A. SCHNURR and SHARILYN K. SCHNURR, individually and as parents of Valeen M. Schnurr, Ashley L. Schnurr and Samantha G. Schnurr, and VALEEN M. SCHNURR, individually, DALE C. TODD and JANA M. TODD, individually and on behalf of Evan M. Todd, Brian W. Todd, Adam C. Todd, and Carl J. Todd, and EVAN M. TODD, BRIAN W. TODD and ADAM C. TODD, individually, ANDREW M. PARK and MICHELLE H. PARK, individually and as parents of Jeanna A. Park and Kathy H. Park, and JEANNA A. PARK individually, WAYNE HARRIS and KATHERINE HARRIS, THOMAS KLEBOLD and SUSAN KLEBOLD; CBS BROADCASTING, INC.; THE DENVER POST CORPORATION; and THE THREAT GROUP

Defendant(s): JOHN P. STONE, in his capacity as Sheriff of Jefferson County, Colorado and THE JEFFERSON COUNTY SHERIFF'S DEPARTMENT

ATTORNEYS FOR: Defendants

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Case Number: 00-CV-884

Div.: 6 Ctrm.: 5B

**NOTICE OF SHERIFF'S DECISION REGARDING REQUEST FOR RELEASE
OF CERTAIN CRIMINAL JUSTICE RECORDS**

EXHIBIT

A1

Part A

Defendants Jefferson County Sheriff Ted Mink and the Jefferson County Sheriff's Office (collectively referred to as the "Sheriff"), by and through the Jefferson County Attorney and Assistant County Attorney Writer Mott, hereby submit the Sheriff's Response to the January 5, 2006 Order of this Court (the "Order") requiring the Sheriff to determine whether or not to disclose certain records seized from the homes of Eric Harris and Dylan Klebold as part of the investigation of the Columbine High School shootings pursuant to the Colorado Criminal Justice Records Act (the "CJRA").¹ In response to the Court's Order, the Sheriff states as follows:

Background

On or around December 5, 2001, the Denver Post sent a request to the Sheriff requesting the right to inspect certain documents seized from the homes of Eric Harris and Dylan Klebold (the "Records") that were gathered by the Sheriff during its investigation of the Columbine shootings. *See Exhibit 1* (a copy of the Denver Post's Criminal Justice Records Act request).² Specifically, the Denver Post requested copies of the following Records:

1. All journals and diary entries written or produced by Eric Harris or Dylan Klebold;
2. All other books, papers, cards, photographs, tapes, recordings, or other documentary materials, regardless of form or characteristics, that were confiscated, seized, or retrieved from the homes of the Klebold and Harris families in connection with any investigation conducted by the Sheriff's Department (and all related law enforcement agencies).

The Sheriff's Office denied this request arguing that the Records seized did not constitute criminal justice records under the CJRA and that it was not in the public interest to disclose these Records. Following the Sheriff's Office denial, on or around January 16, 2002, the Denver Post filed a Motion to Intervene in the above captioned action in an attempt to gain access to the Records. The Denver Post challenged the Sheriff's determination that these Records were not criminal justice records open to inspection. This Court in an opinion dated May 21, 2002 held that documents seized from a home pursuant to a lawful warrant are not converted into criminal justice records simply because of the government's seizure of those documents. *See Exhibit 2* (a copy of this

¹ The CJRA is codified at C.R.S. § 24-72-301, *et. seq.*

² The Records sought by the Denver Post include videotapes made by Eric Harris and Dylan Klebold, audiotapes made by Eric Harris (for purposes of this Notice of Decision the audiotapes and videotapes will be collectively referred to as the "Tapes"), writings and schoolwork of Eric Harris and Dylan Klebold, and a journal kept by Wayne Harris, Eric Harris' father (collectively referred to as the "Writings").

Court's Order finding the records requested by the Denver Post were not criminal justice records).

The Post appealed this decision to the Court of Appeals and the case was eventually appealed to the Colorado Supreme Court. The Colorado Supreme Court in Harris v. Denver Post Corp., 123 P.3d 1166 (Colo. 2005) reversed the decision of this Court finding documents seized in a criminal investigation that are used by the police in the investigation become criminal justice records. Id. at 1174 ("While we conclude the recordings sought to be inspected in this case are criminal justice records because the Sheriff validly obtained them and their content was relevant to the criminal investigation the Sheriff conducted, this does not mean the Sheriff must allow their inspection.").

The Colorado Supreme Court remanded the case to this Court with instructions to order the Sheriff (the custodian of records) to determine whether to allow inspection of the criminal justice records requested. As the Colorado Supreme Court noted, the fact that the Records in this case are criminal justice records "does not mean the Sheriff must allow their inspection." Id. at 1174. The Colorado Supreme Court, in the Harris opinion, created a balancing test for the Sheriff to employ in deciding whether to disclose criminal justice records.

In making this statutory determination [whether to allow inspection of criminal justice records], the custodian takes into account and balances the pertinent factors, which include [1] the privacy interests of individuals who may be impacted by a decision to allow inspection; [2] the agency's interest in keeping confidential information confidential; [3] the agency's interest in pursuing ongoing investigations without compromising them; [4] the public purpose to be served in allowing inspection; and [5] any other pertinent consideration relevant to the circumstances of the particular request.

Id. at 1175.

The fact that this case deals with criminal justice records as opposed to public records (which are governed by the Colorado Open Records Act ("CORA")) is critical for this Court in evaluating the appropriateness of the Sheriff's decision.³ Criminal justice records are entitled to greater protections against disclosure than public records and, accordingly, the custodian of criminal justice records is afforded greater discretion in deciding whether to disclose criminal justice records. "[T]he General Assembly has consigned to the custodian of a criminal justice record the authority to exercise its sound discretion in allowing or not allowing inspection." Harris, 123 P.3d at 1174 (citations omitted).

Under CORA, all public records are presumed open for public inspection unless the document falls under one of the specific statutory exceptions to disclosure. *See* C.R.S. § 24-72-204(1) ("The custodian of public records *shall* allow any person the right

³ CORA is codified at C.R.S. § 24-72-201, *et seq.*

of inspection of such records...except on one or more following grounds or as provided in subsection (2) or (3) of this section....") (emphasis added). The legislature further created a detailed, exhaustive list of specific exceptions to disclosure under CORA. These enumerated exceptions to disclosure are the only grounds under which a custodian of public records may deny access to public records. *See* C.R.S. § 24-72-204(1), -204(2), and -204(3).⁴

In contrast, under the CJRA, the initial decision whether to provide access to criminal justice records is made "at the discretion of the official custodian." C.R.S. § 24-72-304. Thus, a custodian of criminal justice records has much greater latitude in deciding whether to disclose documents than a custodian of public records. "The legislature did *not*, however, mandate disclosure of criminal justice records. Rather, it prohibited inspection of some criminal justice records while allowing the custodian, exercising sound discretion, to permit inspection of other criminal justice records." Harris, 123 P.3d at 1174 (emphasis in original). *See also* Office of the State Court Administrator v. Background Information Serv., 994 P.2d 420, 426-27 (Colo. 1999) (with the exception of records of official actions, "all other criminal justice records, at the discretion of the official custodian, *may* be open for inspection...") (emphasis in original).

The greater deference accorded to the custodian of criminal justice records when deciding whether to disclose criminal justice records is also reflected in the potential penalties for failing to disclose records under CORA as opposed to under CJRA. If the custodian of public records improperly withholds public records, attorneys' fees and costs are assessed against the custodian. *See* C.R.S. § 24-72-204(5) ("Unless the court finds that the denial of the right of inspection was proper, it *shall* order the custodian to permit such inspection and *shall* award court costs and reasonable attorney fees to the prevailing applicant.") (emphasis added). Under the CJRA, however, if a custodian of criminal justice records improperly fails to disclose criminal justice records, court costs and attorneys' fees can only be assessed if the custodian acted arbitrarily or capriciously. C.R.S. § 24-72-305(6). In reviewing the differences between these two penalty provisions, the Colorado Supreme Court in Harris concluded that "[t]his additional restriction imposed on the requester of criminal justice records *reinforces the legislative policy that access to criminal justice records is more limited than access to public records.*" Harris, 123 P.3d at 1171 (emphasis added).

Even more importantly, in Harris, the Colorado Supreme Court established the proper standard of review for courts to evaluate decisions made by a custodian of criminal justice records. In recognition of a custodian of criminal justice records' broad discretion to decide whether to allow the inspection of criminal justice records, the Colorado Supreme Court held that a custodian of criminal justice records' decision to allow or not allow inspection can only be overturned if the custodian of records *abused*

⁴ If the custodian decides to deny access to public records for a reason not included on the list of enumerated exceptions under CORA, the custodian has an affirmative duty to petition the court to grant the exception. *See* C.R.S. § 24-72-204(6)(a).

its discretion in making its determination. "A decision to allow or not allow inspection of the record is subject to judicial review under an abuse of discretion standard." Harris, 123 P.3d at 1175.

This abuse of discretion standard places a high burden on any party seeking to challenge a custodian's decision with respect to disclosure of criminal justice records. "An appellate court will find an abuse of discretion only where the...findings and conclusions are so manifestly against the weight of evidence in the record as to compel a contrary result, such that the...ruling is manifestly arbitrary, unreasonable, or unfair." Hytken v. Wake, 68 P.3d 508, 510 (Colo. App. 2002). *See also* People v. Richardson, 58 P.3d 1039, 1042 (Colo. App. 2002) ("A ruling will be reversed as an abuse of discretion only if there is *no* evidence in the record to support it.") (emphasis added). Accordingly, the Sheriff's decision with respect to whether to release the Records in this case can only be reversed if it is manifestly arbitrary, unreasonable, or unfair, meaning there is *no* evidence to support the decision. *Accord*, Beauprez v. Avalos, 42 P.3d 642, 652 (Colo. 2002).

In light of the Colorado Supreme Court's decision clarifying the appropriate standard of review and the proper balancing test for evaluating whether to permit the inspection of criminal justice records, this Court, on or around January 9, 2005, issued its Order requiring the Sheriff to determine whether to disclose the Records seized from the homes of Eric Harris and Dylan Klebold as part of the Sheriff's investigation of the Columbine shootings pursuant to the CJRA.

The Balancing Test

In order to comply with the balancing test established by the Supreme Court, the Sheriff's Office conducted an extensive analysis of the Records requested by the Denver Post and the effect any disclosure would have on those directly impacted by the Columbine shootings as well as on the potential of the Records being used as blueprints for other school shooters and copycat killings. Specifically, items of special concern included instructions for making bombs and the detailed logistical planning of the school shooting provided by Klebold and Harris in the Records. To aid the Sheriff in this process, the Sheriff sought feedback from those most impacted by the shootings, including the families of those students who were injured or killed in the incident. The Sheriff further consulted with experts in the field of behavioral science, who could provide expert analysis on the potential impacts of releasing the Records on other adolescents who might be considering committing similar tragic acts. This analysis was guided principally by the test elucidated in the Harris decision.

A. Impact on the privacy interests of individuals impacted by the decision

In order to weigh the effect of the release of these Records on those most impacted by the shootings, the Sheriff sent letters to all of the families of children who were injured or killed in the Columbine shootings to elicit their opinions regarding whether the Records should be released. The Sheriff informally contacted fellow law enforcement agencies, first responders, the school district, and officials and teachers from

Columbine High School. The Sheriff also reviewed letters sent by the Denver Post and Rocky Mountain News urging the Sheriff to disclose the Records on the sole grounds that it would enable the public to evaluate the Sheriff's investigation of the matter.⁵

The responses received from victim's families and other impacted parties in the community ran the gamut of possibilities from release nothing, release certain documents, release only to the families (not the media), to release everything. The Sheriff was very concerned about honoring and respecting the families' wishes. Ultimately, however, there was no mandate from the families regarding whether the Records should be disclosed or should be withheld.

B. The agency's interest in pursuing ongoing investigations

This prong of the Harris test is not applicable to this case since the Columbine investigation is closed.

C. The agency's interest in keeping confidential information confidential, the public purpose to be served in allowing inspection, and any other pertinent consideration relevant to the circumstances of the particular request

The final three factors for the Sheriff to weigh, including the Sheriff's interest in keeping the information confidential, the public purpose to be served in allowing inspection, and other pertinent factors related to the circumstances regarding releasing these particular Records, ultimately proved pivotal to the Sheriff's decision in this case. Broadly these three issues effectively pose the question of whether it is in the public interest to release the requested Records. "Custodians of criminal justice records are specifically authorized to deny access to certain records on the ground that disclosure would be 'contrary to the public interest.'" Johnson v. Colorado Dept. of Corrections, 972 P.2d 692, 695 (Colo. App. 1998).

The Sheriff began his analysis of whether it is in the public interest to release the Records by reviewing the Records requested. In conducting this review, it became

⁵ The letter received from the Rocky Mountain News revealed some confusion on the part of the Rocky Mountain News regarding the specific records sought by the Denver Post. That letter referred to the need to release the Records in order to disclose contents of interviews with the law enforcement first responders who responded to the shootings. There are no such records covered by the Denver Post's request as the request covers only the Records seized from the homes of Klebold and Harris. Moreover, the rationale provided by the Denver Post and Rocky Mountain News that these documents would allow the public to evaluate the Sheriff's Office investigation is not persuasive for several reasons. First, these Records constitute only a small portion of the evidence gathered by the Sheriff's Office, as a large percentage of the evidence gathered is not documentary evidence subject to the CJRA. Second, these documents were primarily authored by Harris and Klebold and do not, therefore, provide insight into the scope or direction of the Sheriff's investigation. Thus, the likelihood of these documents revealing any insights into the Sheriff's investigation is marginal.

immediately apparent that the nature and the medium of the Records varied significantly. Accordingly, the Sheriff chose to subdivide the Records into the Tapes, consisting of the videotapes and audiotapes authored by Eric Harris and Dylan Klebold, and the Writings, consisting of all the written documents seized from the Harris and Klebold homes.

The Sheriff's Review of the Tapes

The deeply disturbing nature and content of the Tapes was immediately apparent to the Sheriff upon his viewing of and listening to the Tapes. The Tapes are chilling. The Tapes are a manifesto authored by Harris and Klebold, in which the two call out to other adolescents to commit similar heinous acts. In these Tapes, Harris and Klebold reach out to other adolescents by having a dialogue with the camera and with the individuals watching the Tapes. Harris and Klebold indicate in the Tapes that they created these Tapes so they could "live on" and to give them further notoriety. Their dying wish was that these Tapes would be distributed and spread across the Internet. The Sheriff is unwilling to be an accomplice in Harris' and Klebold's final act by releasing these recordings.

Certain aspects of the Tapes caused the Sheriff great concern. The Tapes are educational and instructive. Klebold and Harris provide a virtual "how-to" step-by-step guide on the means and methods necessary for implementing similar crimes. The Tapes are also a call to arms in which Klebold and Harris implore other adolescents to perpetrate similar acts of violence. The potential danger of these Tapes being used by other students to commit copycat crimes cannot be understated, especially in light of the fact that other school shooters have come to look to Columbine as a guide. In fact, during the Sheriff's review of these documents, on the anniversary of the Columbine shooting this year, the police in Riverton, Kansas stopped a similar school shooting plot modeled after Columbine. *See Exhibit 3* (copies of articles detailing the Kansas plot). Thus, providing desperate or depressed teenagers with additional information on how to plan and perpetrate violent attacks is neither in the Sheriff's interest, as one charged with the duties of protecting and providing law enforcement to the community, nor is it in the general public's interest that this information be released and spread on the Internet to anyone and everyone whose curiosity is piqued.

Another troubling aspect with the potential release of these Tapes is that there would be nothing to prevent someone from altering or using the video, audio, and/or images found on the Tapes for other purposes. A recent story in the Rocky Mountain News provides a good example of how these Tapes could be manipulated and used. This article detailed a former Colorado high school student, who idolized Klebold and Harris, who used the prior information about the Columbine Shootings released by the Sheriff and the media to develop a videogame entitled "Super Columbine Massacre RPG." *See Exhibit 4* (the creator of the game describes Harris and Klebold in the article as "very thoughtful, sensitive and intelligent young men"). In this videogame (which is readily available to be downloaded from the Internet), gamers play the role of Harris and Klebold by shooting fellow students in a virtual layout of Columbine High School. "A player who begins the game is met with directions and the following statement: 'Welcome to Super Columbine Massacre RPG! You play as Eric Harris and Dylan Klebold on that

fateful day in the Denver Suburb of Littleton. How many people they kill is ultimately up to you.” **Exhibit 4.** The creator of this game used information already released by the Sheriff’s Office and actual videos and pictures of Harris and Klebold in the game to make it more realistic. One can only imagine what this game would have looked like if this troubled videogame programmer had had access to the Tapes. This example is illustrative of the problems associated with releasing the Tapes. Once the Tapes are released there is no means to control how they will be used, who will view them, or how they will be manipulated.

The Sheriff was troubled by the nature and content of the Tapes. In order to gather additional information with respect to the potential impacts regarding the release of these recordings, the Sheriff sought to obtain an assessment of the tapes from experts in the field of behavioral science. Accordingly, the Sheriff contacted the Denver Division of the FBI, which, in turn, agreed to have agents from the FBI’s Behavioral Analysis Unit (“BAU”), which is a division of the National Center for the Analysis of Violent Crime (“NCAVC”) and is a part of the FBI’s Critical Incident Response Group, review the Tapes. The BAU agreed to conduct an impartial analysis of the Tapes and prepare an assessment detailing its findings regarding the potential impact of the Release of the Tapes. A copy of the BAU’s Assessment is attached as **Exhibit 5.**

The NCAVC is a law enforcement-oriented behavioral science and resource center, which offers investigative support, research and training to law enforcement agencies throughout the world which are confronted with bizarre, serial, violent, and complex criminal behavior. Cases assessed by the NCAVC include cases involving homicides, arsons and bombings, school shootings, threats of violence, and other crimes of violence. The agents assigned to the NCAVC are highly trained, educated and experienced agents from both the FBI and the Bureau of Alcohol, Tobacco, and Firearms (the “ATF”). The NCAVC is unique, therefore, in that its agents share both practical law enforcement experience and strong academic and research credentials.

The NCAVC has devoted a significant amount of its resources and expertise to studying and researching school shootings. In May 1998, the NCAVC launched a research initiative to study the occurrences of school shootings from a behavioral science perspective. The original research was designed to study specific cases of school shootings or foiled attempts in order to develop a better understanding of these events—the incident itself, and the shooter, his background, the school, and other social dynamics which may have influenced the crime. Eighteen cases were initially identified and included in the study. This assessment was expanded following the Columbine shootings in April 1999. In July 1999, the NCAVC sponsored a symposium on school shootings, which included 160 educators, administrators, mental health professionals, law enforcement officers, and prosecutors.

This research and the symposium culminated in the publication of a monograph authored by the NCAVC entitled “The School Shooter: A Threat Assessment Perspective,” a copy of which is attached as **Exhibit 6.** This monograph was developed from the concepts and principles developed by the NCAVC’s nearly 25 years of experience in threat assessment, the symposium, and NCAVC’s research of specific

school shootings. This monograph is one of the seminal and authoritative writings on school shootings and has been used by numerous state and local governments to develop policies for addressing school shootings. Since the publication of this monograph, the NCAVC has continued its work on the issues of school violence, reviewing and/or consulting on numerous school shootings or threats of school shootings across the United States. Given the NCAVC's and BAU's experience consulting on and studying the issue of school shootings, the agents at the BAU are uniquely situated to provide an assessment of the videos and audiotapes created by Eric Harris and Dylan Klebold.

In February 2006, an investigator with the Sheriff's Office traveled to Quantico, Virginia and allowed members of the BAU to view the Tapes in order to conduct the assessment. Based on their observation of the Tapes, their extensive experience in investigating and studying school shootings, and the combined experiences and institutional knowledge of the NCAVC, the BAU reached the following conclusions regarding the impact of the release of the Tapes.

The BAU found that the Tapes were a call to arms and that there was a high likelihood that these Tapes would be used by other suicidal or homicidal individuals as a guide for committing acts of violence. The BAU specifically found that the effect of Harris' and Klebold's dialogue in the Tapes is to normalize their aberrant thinking and violent behavior. Harris and Klebold give voice to a myriad of painful experiences endured by adolescents and then seek to rationalize their heinous plot as a model for addressing these issues of teen angst. This risk of normalizing Harris' and Klebold's violent behavior is increased by the fact that Harris and Klebold appear articulate and intelligent on the Tapes. The Tapes, therefore, have the effect of glamorizing and glorifying the violent actions of Harris and Klebold.

The BAU found that there was a high likelihood that these Tapes would be used by copycat school shooters. This risk was magnified by the fact that the Columbine shootings have become the model that potential school shooters seek to emulate.⁶ Not only are the messages included in the Tapes dangerous, but the fact that the messengers are Harris and Klebold means it may have an even greater impact on impressionable youth. Since Harris and Klebold appear to be reaching out from beyond the grave to spread their message of hate and perpetuation of violence, the likelihood of these Tapes inspiring copycat killers is even greater.

The BAU found that the lack of reality testing or tempering of their violent thoughts in the video would pose serious risks. Lone individuals who might be considering taking similar actions could now have a second gunman or an accomplice in the Tapes to relate to and to motivate and educate them to take action.

Moreover, if the Tapes were to be released, there would be no means to control their distribution or how they are used. Given the advances in the field of mass communications, there is little doubt that the Tapes would immediately be placed on the

⁶ The Columbine shootings, to date, are still the largest and deadliest school shooting in the United States.

Internet.⁷ The lack of control over who would view these Tapes and how they would be used, would mean the release would act as a sort of Pandora's box. If it was later discovered that the Tapes were being used as models for other school shooters to plan and implement attacks, there would be no means to effectively put the genie back in the bottle. The Tapes could continually be used to instruct, coach, and motivate individuals to perpetrate violent acts.

Both common sense and the expert assessment of the Tapes dictate that these recordings be withheld on grounds that it is not in the public interest that these hateful, virulent, instructional recordings be made available to the general public via the Internet. The Sheriff, therefore, has decided not to release the Tapes in response to the Denver Post's request.

The Writings

In the course of making his decision, the Sheriff also completed a thorough review of the Writings. The bulk of the Writings were largely irrelevant and innocuous, consisting mostly of school work. Also included in the Writings, however, were the journals of Harris and Klebold, the messages written to each other in their yearbooks, and Wayne Harris' journal. The Sheriff carefully weighed the impact of releasing these Writings and, ultimately, concluded that the Writings are of a very different character and content than the Tapes. As a practical matter, the medium of the Writings is of a very different nature than the Tapes. The Sheriff believes that video and audio images provide a more powerful medium for communicating with troubled adolescents than the written word.

In addition to the obvious differences in the mediums used to express their messages, the messages contained in the Writings are also of a different nature. The Writings, specifically the journals of Eric Harris and Dylan Klebold, provided Harris and Klebold a forum to express their anger and dissatisfaction with school, relationships, and their lives. The Writings, therefore, consist generally of Harris and Klebold complaining and venting about their lives and about problems at school. In contrast, the Tapes provide a medium for Harris and Klebold to dialogue and develop, strategize, and coordinate their plans for the shootings. Even more importantly, in the Tapes, Harris and Klebold address those watching the Tapes and appear to be talking directly to their intended audience. This is a significant difference between the Writings and the Tapes. The Tapes were directed towards a specific audience and were prepared with that in mind. The Writings consist of personal journal entries written to themselves, which lack the dialogue component of the Tapes.

Accordingly, the Writings (with the exception of the bomb-making instructions which have been redacted) lack the educational component, which makes release of the

⁷ The fact that these Tapes would be immediately distributed via the Internet is evidenced by the fact that both the Rampart Range and Trenchcoat Mafia School Project videos created by Harris and Klebold, which were previously released, are readily available and can be accessed on numerous websites.

Tapes so dangerous. Moreover, the fact that the Tapes present the message through audio and video feeds is more problematic. The Tapes have a dramatic visual and audio impact that is lacking in the Writings. Since the target audience for these materials is other depressed, suicidal, or desperate adolescents, the medium that the message is expressed through is very important. Adolescents are more likely to be impacted by video and audio images.

Based on the fact that the Writings would likely have less of an impact based on the medium through which the message is expressed and that the Writings do not provide the instructional and planning details found in the Tapes, the Sheriff has decided to release the majority of the Writings seized from the homes of Harris and Klebold. The released Writings have been redacted to remove names, phone numbers, addresses and other personal information regarding other students and individuals targeted by Harris and Klebold. The Writings have also been redacted to remove bomb-making instructions and copyrighted material, such as song lyrics. Certain other documents have been withheld in their entirety, including copyrighted material, documents which provide bomb-making instructions, medical records, and Harris and Klebold's yearbooks (in which notations were made on pictures of the students making it impossible to redact these documents without revealing the identities of their intended victims).⁸⁹

Conclusion

The Sheriff's responsibility to the victims of the Columbine tragedy, the citizens of Jefferson County, and other communities that could potentially be adversely impacted by the release of this information weighed heavily in the Sheriff's decision to release some of the Records requested and to withhold others. The Sheriff's analysis was principally guided by whether it would be in the public interest for these Records to be released and mass distributed via the Internet. The Sheriff was well aware that once a decision was made to release any of the Records, there would be no means or method to control how they would be distributed or who would use or read them.

Accordingly, the Sheriff concluded it was not in the public interest or the Sheriff's interest to release the Tapes, which serve as a call to arms to other potential school shooters to perpetrate similar atrocities and which provide the instructional details for planning similar acts. The Sheriff could not, therefore, in good conscience release the Tapes given the high probability that they would be used by other adolescents as a guide and tool for planning a similar shooting.

⁸ Copies of Harris' and Klebold's writings to each other contained in their yearbooks have been produced, but the remainder of their yearbooks have been withheld.

⁹ Each place where a document or documents have been withheld, a sheet describing the document(s) withheld and the reasons for not releasing that material is provided.